



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #SD-15-034

### TITLE: Opposing Idaho's Proposed Water Quality Standards and Fish Consumption Rate

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**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, since time immemorial, we, the first people of the Pacific Northwest, have cared for and sustained our way of life, religion, and culture beginning with the pure water that we hold sacred, and we are obligated to take appropriate and necessary actions to care for the water for the next seven generations; and

**WHEREAS**, on August 6, 2015, the Idaho Department of Environmental Quality (IDEQ) announced their draft rule for revising the State's surface water quality standards (WQS) based on an inadequate fish consumption rate (FCR), which fails to meet tribal goals of protecting human health, treaty rights, and other tribal reserved rights for future generations; and

**WHEREAS**, the proposed human health criteria standards include a trivial, minor increase in the Idaho FCR from the current 6.5 grams per day to only 16.1 grams per day, which utterly fails to reflect true tribal fish consumption rates and does not protect the health, lifeways, treaty rights, and trust resources of tribes in Idaho; and

**WHEREAS**, the proposed Idaho FCR of 16.1 grams per day is substantially less than the EPA's subsistence default FCR of 142 grams per day; and

**WHEREAS**, the Nez Perce Tribe and Shoshone-Bannock Tribes of the Fort Hall Reservation undertook an exhaustive one-year tribal fish consumption survey implementing the food frequency questionnaire method and found that FCRs among these tribes may be at least 20 times greater than the 16.1 grams per day FCR that IDEQ is proposing; and

**WHEREAS**, IDEQ's draft rule excludes, except for steelhead, anadromous fish—a tribal First Food of vital importance for cultural preservation and subsistence—in determining standards for “allowable” pollution, an omission that is outrageous and completely unacceptable to the tribes; and

**WHEREAS**, IDEQ recommends using an incremental cancer risk level of  $10^{-6}$  (one-in-one-million) at the 95<sup>th</sup> percentile for the general population, but only the mean percentile for high fish-consuming tribal populations, leaving a substantial portion of the tribal population exposed to cancer risk greater than one-in-one-million; and

**WHEREAS**, IDEQ's draft rule will perpetuate an ongoing environmental injustice by subjecting tribal people to disproportionately higher risks simply from exercising our rights to our First Foods and practicing our religion and culture, while providing substantially more protection to the general population of Idaho; and

**WHEREAS**, IDEQ's draft rule will not protect downstream waters in the states of Oregon and Washington, or on Indian reservations, where standards are, or may become, more stringent, thus posing a threat to tribes in downstream areas; and

**WHEREAS**, the U.S. EPA has previously disapproved Idaho's proposed WQS rule as it did not consider regional tribal fish consumption patterns and rates.

**NOW THEREFORE BE IT RESOLVED**, that the National Congress of American Indians (NCAI) opposes and rejects IDEQ's draft rule for revising surface WQS of 16.1 grams per day, in particular its decisions to adopt an inaccurate and non-protective FCR that excludes, except for steelhead, anadromous fish from its calculation, and unfairly protects only the “mean” percentile of high-consuming tribal populations from elevated cancer risk while providing substantially more protection to the general population of Idaho; and

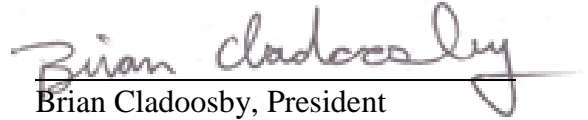
**BE IT FURTHER RESOLVED**, that NCAI requests that the U.S. EPA uphold its commitments to tribes and disapprove IDEQ's WQS draft rule if it is finalized and submitted in its current form, and immediately begin the steps necessary to independently promulgate at the federal level surface water quality standards for Idaho that will protect human health, safeguard inherent and Treaty Rights to harvest clean, consumable fish, and uphold its commitment to Environmental Justice for tribal communities; and

**BE IT FURTHER RESOLVED**, that NCAI supports independent federal promulgation of surface water quality standards for Idaho that adequately protects tribal people, as well as non-tribal communities, their rights and resources, and that are equal to or more stringent than standards in Oregon; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

**CERTIFICATION**

The foregoing resolution was adopted by the General Assembly at the 2015 Annual Session of the National Congress of American Indians, held at the Town and Country Resort, San Diego, CA, October 18-23, 2015, with a quorum present.

  
Brian Cladoosby, President**ATTEST:**  
Aaron Payment, Recording Secretary